

IN THE DISTRICT COURT OF NEBRASKA FOR DODGE COUNTY

MARY A SMITH,)	DOC.	PAGE
)		
Plaintiff,)		
)		
vs.)	COMPLAINT	
)		
ARBOR MANOR; SSC FREMONT)		
OPERATING COMPANY, LLC, d/b/a)		
ARBOR MANOR; SMV FREMONT,)		
LLC, d/b/a ARBOR MANOR; and)		
SMV FREMONT REALTY, LLC., d/b/a)		
ARBOR MANOR,)		
)		
Defendants.)		

FILED
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 DODGE COUNTY, NEBRASKA
 LINDA J. NELSON
 DISTRICT COURT CLERK

Plaintiff, Mary A. Smith, for her claims for relief against Defendants, Arbor Manor, SSC Fremont Operating Company, LLC, d/b/a Arbor Manor, SMV Fremont, LLC, d/b/a Arbor Manor and SMV Fremont Realty, LLC, d/b/a Arbor Manor states that at all times material hereto:

1. She was a resident of Rosalie, Thurston County, Nebraska and was born May 24, 1937.

2. Arbor Manor is an entity operating a nursing home at 2550 North Nye Avenue, Fremont, Dodge County, Nebraska; SSC Fremont Operating Company, LLC is a foreign corporation incorporated in the State of Delaware but doing business in Nebraska with its principal place of business at 2550 North Nye Avenue, Fremont, Dodge County Nebraska; SMV Fremont, LLC is a foreign corporation incorporated in the State of Delaware but doing business in Nebraska with its principal place of business at 2550 North Nye Avenue, Fremont, Dodge County Nebraska; SMV Fremont Realty LLC is a foreign corporation incorporated in the State of Delaware but doing business in Nebraska with its principal place of business at 2550 North Nye Avenue, Fremont, Dodge County, Nebraska. Arbor Manor, SSC Fremont Operating Company,



LLC, SMV Fremont, LLC and SMV Fremont Realty, LLC are affiliated with each other, engaged in the business of owning, operating or maintaining a nursing home providing medical care to its residents; held themselves out as full-service nursing homes capable of rendering proper and appropriate care for patients; and the employers of staff who provide care to patients and for whom they are responsible under the doctrine of respondeat superior or vicarious liability .

3. Arbor Manor, SSC Fremont Operating Company, LLC, d/b/a Arbor Manor, SMV Fremont, LLC, d/b/a Arbor Manor and SMV Fremont Realty, LLC, d/b/a Arbor Manor owned and operated the nursing home located at 2550 North Nye Avenue, Fremont, Dodge County, Nebraska in June and July of 2006.

4. Arbor Manor, Arbor Manor, SSC Fremont Operating Company, LLC, d/b/a Arbor Manor, SMV Fremont, LLC, d/b/a Arbor Manor and SMV Fremont Realty, LLC, d/b/a Arbor Manor held themselves out as a health care facility capable of rendering and providing proper and appropriate medical care and attention to patients in need of nursing services including skilled and unskilled nursing services.

5. June 2, 2006, Mary A. Smith underwent five vessel coronary bypass surgery with grafts at the University of Nebraska Medical Center, including grafts from her right lower leg.

6. July 1, 2006, Mary A. Smith entered Arbor Manor as a resident for post-surgical nursing care during her rehabilitation. At the time of her admission, the admitting orders directed to Arbor Manor and its nursing staff included, as to the resident Mary A. Smith "wash incisions with Dial soap, rinse and keep dry daily" and "wash incision with Dial soap daily" which incisions included the grafting site on Mary A. Smith's right lower leg.

7. July 13, 2006 at 4:40 p.m. the interdisciplinary progress notes regarding Mary A. Smith state "LE's with dried scabs intact and no drainage from areas."

8. July 14, 2006 at 1:30 p.m. the interdisciplinary progress notes for Mary A. Smith state "wounds to R leg cleansed with soap and water. Moderate amount of dark drainage noted. Foul odor noted. Area dressed with Telfa island; will continue to monitor."

9. July 15, 2006 at 8:35 a.m. the interdisciplinary progress notes for Mary A. Smith state "LPN comes to desk and reports that when removing the dressing to RLE she saw maggots in lower shin (inner area) with copious amounts of blackish brown foul drainage. LPN covered and contained until nurse manager could see. Nurse manager calling Shelly Bang, DON."

10. July 15, 2006 at 8:30 a.m. the interdisciplinary progress notes for Mary A. Smith state "called to Shelley Bang, DON to notify her what Mary's (R) LE looked like, dark, necrotic tissue that tunneled into leg with foul drainage (brown in color) also noted little white moving objects in this area. Area then covered at this time. Shelley advised to call physician to notify and surgeon to notify the above."

11. Upon transfer to the Nebraska Medical Center, Mary A. Smith was evaluated and found to have evidence of early wound breakdown of the right harvest site of her leg with evidence of maggot infestation with a large eschar and necrotic tissue present. Mary was admitted for therapy. A surgical procedure was performed, the necrotic eschar removed, and a finding of multiple maggots present with maggots tunneling into the skin which was unroofed revealing more maggots.

12. In the day and days after July 15, 2006 Mary A. Smith has undergone multiple medical and surgical procedures for further treatment of the maggot infested site to her right lower leg.

13. The nursing care and medical treatment provided to Mary A. Smith by defendants was negligent proximately causing damage and injuries to Mary A. Smith.

14. In the rendering of professional services, treatment and care to Mary A. Smith, the nursing staff at Arbor Manor failed to use and exercise the ordinary and reasonable care, skill and knowledge exercised and possessed by nursing staff in the Dodge County, Nebraska community or similar communities and was professionally negligent without limitation in each of the following particulars:

- a. failing to clean the wounds of Mary A. Smith daily with Dial soap and rinse, thereby allowing maggots to infest her skin.
- b. violating numerous Federal Code requirements imposed upon nursing homes.
- c. failing to provide for a care plan for Mary Smith.
- d. failing to report foul odor noted July 14 or to contact any physician.
- e. failing to provide appropriate nursing care to the resident Mary A. Smith.

15. The negligent acts of omission and commission of the nursing staff at Arbor Manor constitute breaches of the applicable standard of care for nurses treating the same or similar conditions of type that Mary A. Smith suffered from in the same or similar communities.

16. As a direct and approximate result of the negligence of defendants and its employees, Mary A. Smith has sustained damages, injuries and losses in the following particulars:

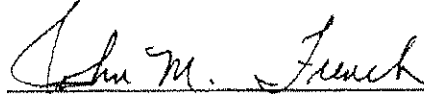
- a. medical expenses in the past in the approximate amount of \$347,614.88
- b. medical expenses in the future
- c. physical and mental pain and suffering, past, present and future
- d. loss of function of the mind and body, past, present and future
- e. loss of enjoyment of life
- f. additional scaring

WHEREFORE, Mary A. Smith prays for judgment against defendants Arbor Manor, SSC

Fremont Operating Company, LLC, d/b/a Arbor Manor, SMV Fremont, LLC, d/b/a Arbor Manor and SMV Fremont Realty, LLC, d/b/a Arbor Manor in an amount which would compensate her for her special damages, general damages, injuries, losses and other damages, together with interest thereon at the maximum legal rate and the costs of this action.

MARY A. SMITH, Plaintiff,

By



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